

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 16-0494-DOC (JCGx)

Date: April 15, 2016

Title: CITY OF NEWPORT BEACH V. M/Y BAD HABIT

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Deborah Goltz
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER TO SHOW CAUSE WHY
CASE SHOULD NOT BE
DISMISSED FOR LACK OF
SUBJECT MATTER
JURISDICTION**

On March 16, 2016, Plaintiff City of Newport Beach (“City” or “Plaintiff”) commenced a putative *in rem* action against M/Y Bad Habit (“Defendant Vessel”). *See* Complaint (“Compl.”) (Dkt. 1). Plaintiff filed an Ex Parte Application for Order Authorizing Issuance of Arrest Warrant (“Application”) that same day (Dkt. 5).

On March 18, 2016, the Magistrate Judge preliminarily found the conditions for an *in rem* action did not exist and directed Plaintiff to show case why the Application should not be denied. *See* Order to Show Cause (“OSC”) (Dkt. 15). Plaintiff responded on March 23, 2016 (Dkt. 17). On March 31, 2016, the Magistrate Judge found Plaintiff had failed to demonstrate the necessary conditions for an *in rem* action. Magistrate Judge Order, March 31, 2016 (Dkt. 18) at 6.¹

¹ The Court notes that as of today’s date, Plaintiff has not appealed or sought reconsideration of the Magistrate Judge’s ruling. While limited authority exists on this issue, it appears this Court is required to independently review whether jurisdiction exists. *See also* Cal. Prac. Guide Fed. Civ. Pro. Before Trial 16-F (noting a “party’s failure to file timely objections to a magistrate judge’s subject matter jurisdiction does not excuse the appellate court’s

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Based on the foregoing, the Court hereby ORDERS Plaintiff to SHOW CAUSE as to why this case should not be dismissed for lack of subject matter jurisdiction. Plaintiff shall file a brief of no more than **five pages** responding to this Order on or before **April 25, 2016**. If the Court does not receive a timely response by Plaintiff, the case will be dismissed. Alternatively, if Plaintiff does not wish to prosecute this action, it should file a voluntary dismissal pursuant to Rule 41.

The Clerk shall serve this minute order on the parties.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: djg

independent obligation to determine whether the exercise of such jurisdiction”) (citing *Marcella v. Capital Dist. Physicians’ Health Plan, Inc.*, 293 F.3d 42, 46–47 (2d Cir. 2002)).